

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

IN THE UNITED STATES DISTRICT COURT 13 AUG -1 AM 11:43
FOR THE DISTRICT OF NEW MEXICO  CLERK-LAS CRUCES

CHARTER FITNESS OF RIO RANCHO LLC,
CHARTER FITNESS OF SKYVIEW LLC,
CHARTER FITNESS OF FAR NORTH LLC, and
PETER J. VRDOLYAK III,

Plaintiffs/Counter Defendants,

v.

CIV 12-0365 RB/KBM

MAXREP LLC,
BILL RODWAY, individually,

Defendants/Counterclaimants,

-and-

J.B. PRIVITT, individually,

Defendant in Default.

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION

The Chief Magistrate Judge filed her Proposed Findings and Recommended Disposition on July 5, 2013. See *Doc. 25*. The proposed findings notify the parties of their ability to file objections and that failure to do so waives appellate review. To-date, counsel have not filed any objections, and most recent response acknowledges that adoption will also dispose of the other pending motion to dismiss. See *Doc. 26*.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 25*) is **adopted**;
2. Plaintiffs' motion to dismiss (*Doc. 6*) is **denied in part and granted in part**, and Count II of the Maxrep's Counterclaim (*Doc. 4 at 16*) is **dismissed with prejudice**;
3. Plaintiffs' motion to dismiss (*Doc. 23*) is **denied**.


UNITED STATES DISTRICT JUDGE